


OCT 13 2011

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
HARRISONBURG DIVISION

JULIA C. DUDLEY, CLERK  
BY:   
DEPUTY CLERK

UNITED STATES OF AMERICA, )  
 )  
 ) Criminal No. 5:05cr00029-2  
v. )  
 ) **2255 FINAL ORDER**  
 )  
RANDOLPH W. AREY. )  
 ) By: Samuel G. Wilson  
 ) United States District Judge

For the reasons stated in the accompanying Memorandum Opinion, it is hereby

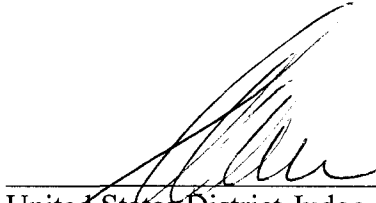
**ORDERED and ADJUDGED**

that Arey's motion (Docket No. 189) is **CONSTRUED** as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255; the § 2255 motion shall be and hereby is **DISMISSED without prejudice** as successive; and the case is hereby **STRICKEN** from the active docket.

Further, finding that Arey has failed to make the requisite substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(1), a certificate of appealability is **DENIED**.

The Clerk is directed to send copies of this Order and the accompanying Memorandum Opinion to the parties.

**ENTER:** This 13<sup>th</sup> day of October, 2011.

  
\_\_\_\_\_  
United States District Judge